

# MEMO ENDORSED



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June 13, 2024

**VIA ECF**

Hon. Edgardo Ramos  
United States District Judge  
United States District Court  
Southern District of New York  
40 Foley Square  
New York, New York 10007

The request is granted. The briefing schedule for Defendants' summary judgment motion will be held in abeyance pending the Court's decision on Plaintiff's request to amend his complaint. SO ORDERED.

Edgardo Ramos, U.S.D.J.

Dated: June 13, 2024

New York, New York

Re: Mark Gaines v. the City of New York et al., 22 Civ. 01769 (ER)

Your Honor:

I am a Senior Counsel in the Office of Muriel Goode-Trufant, Acting Corporation Counsel for the City of New York, representing Defendants City of New York and Police Officer Nikodomus Petrone in the above-referenced matter. Defendants write to respectfully request that the briefing schedule for their motion for summary judgment be held in abeyance pending the Court's decision on plaintiff's motion to amend his complaint.

By letter dated May 14, 2024, defendants requested that Your Honor schedule a pre-motion conference in anticipation of their motion for summary judgment. At that time, in the alternative, defendants proposed a briefing schedule for Your Honor's endorsement. Pursuant to that schedule, defendants motion is to be filed on June 25, 2024, plaintiff's opposition to be filed by August 6, 2024, and defendants' reply, if any, to be filed by August 20, 2024. On May 15, 2024, Your Honor approved the aforementioned schedule.

Thereafter, plaintiff filed a request to amend his complaint to add Police Officer Kevin Outlaw as a defendant in this action. *See* ECF ¶¶ 52-54. On June 4, 2024, in accordance with Your Honor's May 30, 2024 Order, defendants filed a letter opposing plaintiff's belated request to amend his complaint. *See* ECF ¶ 56. On June 7, 2024, Your Honor ordered the parties to appear for a telephonic conference on June 26, 2024 to discuss plaintiff's request to amend. *See* ECF ¶ 57.

In the event that plaintiff's motion to amend is granted and he is permitted to add a new defendant, it will affect defendants' motion for summary judgment since defendants contemplate moving on behalf of P.O. Outlaw too. Before we can do so, however, plaintiff must first effectuate proper service upon him and, once service is effected, then this office must resolve representation with the defendant consistent with our obligations under New York's General Municipal Law. While summary judgment briefing can be done in a piecemeal fashion, defendants respectfully submit that it would be most efficient to file one motion on behalf of all defendants at the appropriate time. Of course, if P.O. Outlaw is not added as a defendant, it will also affect the manner in which the motion papers are drafted.

Accordingly, defendants respectfully request that the briefing schedule for their motion for summary judgment be held in abeyance pending the Court's decision on plaintiff's motion to amend his complaint.<sup>1</sup> Thank you for your consideration herein.

Respectfully submitted,

/s/ Rachel Seligman Weiss

Rachel Seligman Weiss  
Senior Counsel

cc: Mark Garnes  
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<sup>1</sup> At that time, defendants will propose a new briefing schedule for their motion.